[JOINT COMMITTEE PRINT]

RECORDKEEPING REQUIREMENTS FOR AUTOMOBILES AND OTHER PROPERTY

SCHEDULED FOR A HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS

ON MARCH 5, 1985

PREPARED BY THE STAFF

OF THE

JOINT COMMITTEE ON TAXATION

MARCH 4, 1985

U.S. GOVERNMENT PRINTING OFFICE

44-226 O WASHINGTON : 1985 JCS-4-85

J862-4
H782-5

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INTRODUCTION

The House Committee on Ways and Means has scheduled a public hearing on March 5, 1985, on the temporary and proposed regulations relating to recordkeeping requirements for automobiles and other property.

Part I of the pamphlet discusses recordkeeping requirements prior to the Tax Reform Act of 1984. Part II is a description of the changes made by the Tax Reform Act of 1984. Part III describes the initial and additional (amended) temporary regulations. The Appendix contains a summary of the House and Senate legislative proposals relating to repeal of the 1984 recordkeeping provisions.

I. RECORDKEEPING PRIOR TO THE TAX REFORM ACT OF 1984

Under prior and present law, which was unchanged by the Tax Reform Act of 1984 (P.L. 98-369; hereafter "the 1984 Act"), taxpayers are permitted deductions for the business use of an automobile or other means of transportation. Taxpayers are not, however, permitted deductions (other than for interest and State and local personal property and general sales taxes) for the personal use of an automobile.

The Internal Revenue Code of 1954, as originally enacted, provided that ordinary and necessary business expenses paid or incurred in carrying on a trade or business could be deducted for the taxable year they were paid or incurred, as provided in Code section 162.[1] The 1954 Code also provided that ordinary and necessary expenses paid or incurred for the production of income could be deducted for the taxable year they were paid or incurred, as provided in section 212.[2] Expenses for both local travel and travel while away from home are deductible under one of these sections, if incurred in connection with either a trade or business or for the production of income. These sections have remained essentially unchanged to the present time.

Prior to the Revenue Act of 1962, the best-known case describing the recordkeeping requirements under sections 162 and 212 was *Cohan v. Commissioner of Internal Revenue*.[3] In that case, the taxpayer had kept no record of his entertainment and travel expenses. The court required that "as close an approximation" as can be made be made to determine the appropriate deductions of the taxpayer.

The Revenue Act of 1962 added section 274(d) to the Code. That section, as originally enacted, provided that no deduction shall be allowed under section 162 or 212 for any travel expense unless the taxpayer substantiates that expense by adequate records or sufficient evidence corroborating his own statement. This provision was added to the Code because Congress recognized that "in many instances, deductions are obtained by disguising personal expenses as business expenses."[4] Consequently, Congress enacted section 274(d) to "abolish the Cohan rule by requiring the taxpayer to substantiate, by adequate records or sufficient evidence corroborating his own statement, all expenditures . . . for travel."[5]

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[1] A provision similar to section 162 was in effect under the Internal Revenue Code of 1939 (see sec. 23(a)(1)) as well as prior Revenue Acts.

[2] A provision similar to section 212 was added to the Internal Revenue Code of 1939 (see sec. 23(a)(2)) by the Revenue Act of 1942.

[3] 39 F.2d 540 (2d Cir., 1930).

[4] H. Rep. No. 87-1447 (March 16, 1962), p. 19; House Committee on Ways and Means Report on the Revenue Act of 1962.

[5] *Id.*

The Internal Revenue Service issued regulations implementing this provision shortly after the enactment of the Revenue Act of 1962.[6] These regulations[7] were made applicable to deductions for travel away from home.

[6] T.D. 6630, 27 F.R. 12931 (December 29, 1962).
[7] See Treas. Reg. sec. 1.274-5(a)(1).

II. CHANGES MADE BY THE TAX REFORM ACT OF 1984

The 1984 Act made several changes to section 274(d) of the Code. First, the 1984 Act added to that section of the Code the requirement that the records kept by the taxpayer must be "contemporaneous." The term "contemporaneous" was not defined in the statute. Second, the 1984 Act deleted from section 274(d) the alternative method of substantiating deductions, which was by means of sufficient evidence corroborating the taxpayer's own statement. Third, the 1984 Act made all listed property subject to the requirements of section 274(d). Listed property is defined as: automobiles and other means of transportation; entertainment, recreation or amusement property; computers; or other property specified in regulations.

The 1984 Act also made two other changes to prior law so as to improve compliance. First, the 1984 Act required that paid income tax return preparers advise the taxpayer of the substantiation requirements of section 274(d) and obtain written confirmation from the taxpayer that these requirements were met. Failure to advise the taxpayer or to obtain the confirmation subjects the return preparer to a penalty of $25 for each failure, unless the failure is due to reasonable cause and not to willful neglect.

The second related compliance provision provided that, for purposes of the negligence penalty, any portion of an underpayment of tax due to a failure to comply with the recordkeeping requirements of section 274(d) is treated as due to negligence, in the absence of clear and convincing evidence to the contrary. The penalty is 5 percent of the portion of the understatement attributable to the failure to comply with the recordkeeping requirements of section 274(d).

The recordkeeping changes made to section 274(d) by the 1984 Act, as well as the related compliance changes made by that Act, became effective for taxable years beginning after December 31, 1984.

III. IRS TEMPORARY REGULATIONS

A. Initial Temporary Regulations

On October 15, 1984, the Internal Revenue Service issued temporary regulations[8] interpreting the statutory requirement that, in order to obtain any deduction or credit with respect to the acquisition or use of listed property, the taxpayer must substantiate the amount and business purpose of the expenditure (under Code secs. 274(d)(4) and 280F).

Listed property

The term listed property includes, among other items, passenger automobiles and other transportation vehicles (sec. 280F(d)(4)).[9] However, the regulations provide that except for vehicles used for commuting, vehicles of a type ordinarily not susceptible to personal use do not constitute listed property to which the section 274(d) substantiation requirements apply. The initial temporary regulations cite, as examples of property that ordinarily is not susceptible to personal use, trucks specially designed for specific business purposes (such as refrigerated delivery trucks), cement mixers, and forklifts.

Substantiation requirements

Under the initial temporary regulations, a taxpayer must satisfy the following requirements in order to substantiate business use of automobiles or other vehicles that constitute listed property, effective for taxable years beginning after 1984.

(1) *Format.*—The record of use of the vehicle must be in the form of a log, journal, diary, or other similar record.

(2) *Frequency of entries.*—As a general rule, a separate entry must be made in the log or other qualifying record for each single use of the vehicle, whether business or personal. However, no entries need be made for personal uses if the taxpayer records the vehicle's mileage at the beginning and the end of the year. The separate legs of a round trip, or other uses that may be considered part of a single use, may be recorded by only a single entry.

(3) *Content of entries.*—Each required entry in the log or other qualifying record must specify (a) the date of the use of the vehicle, (b) the name of the user, (c) the number of miles that the vehicle

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[8] 49 Fed. Reg. 42743 (Oct. 24, 1984). Temporary regulations are issued to provide immediate guidance to taxpayers and remain in effect until superseded by final regulations. The IRS also issued the content of the initial temporary regulations as proposed regulations and invited comments thereon.

[9] Other types of property, such as certain computers, also constitute listed property (sec. 280F(d)(4)). Since the initial and additional temporary regulations focus on automobiles and other vehicles, the description of the regulations in this pamphlet generally relates only to vehicles.

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was used, and (d) the purpose of the use (e.g., to meet a customer for a sales presentation).

(4) *Time of entry.*—Each required entry in the log or other qualifying record must be made at or near to the time the vehicle is actually used.

B. Additional Temporary Regulations

On February 15, 1985, the Internal Revenue Service issued temporary regulations[10] that amend the initial temporary regulations in certain respects, add alternative methods available in certain circumstances for satisfying the statutory requirement of substantiation by adequate contemporaneous records, and amend certain aspects of temporary regulations issued January 2, 1985, relating to the valuation of taxable fringe benefits.[11]

Listed property

The additional temporary regulations expand the exclusion (set forth in the initial temporary regulations) from the definition of listed property for vehicles of a type ordinarily not susceptible to personal use to include special-purpose farm vehicles (such as tractors and combines) and dump trucks. Accordingly, unless used for commuting, special-purpose farm vehicles are not subject to the substantiation requirement of adequate contemporaneous records.

General substantiation requirement

The additional temporary regulations amend the provisions of the prior regulations that interpreted the statutory substantiation requirement of adequate contemporaneous records in the following respects.

(1) *Format.*—In lieu of maintaining a log or other similar record setting forth specified information, the taxpayer may utilize other contemporaneous records (for example, trip sheets or cards, or time and expense reports) containing the specified information, if such records are kept in an orderly fashion.

(2) *Frequency of entries.*—The additional temporary regulations provide that an uninterrupted business use (like a round trip) requires only a single entry in the log or other qualifying record. For example, the regulations provide that only a single entry is required to account for use of a truck to make deliveries at several different locations where the delivery trip begins and ends at the business premises or includes a stop at the business premises between different deliveries; similarly, only a single entry is needed for use of a car by a salesperson for a business trip away from home for a period of several days. The regulations also provide that a business use is not to be considered interrupted by a de minimis personal use, such as a stop for lunch on the way between two business deliveries.

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[10] 50 Fed. Reg. 7038 (Feb. 20, 1985). The prior proposed regulations were withdrawn. The content of the initial temporary regulations, as amended, plus the additional temporary regulations, was also issued as proposed regulations. Further comments from the public were invited, and hearings on the proposed regulations before the IRS have been scheduled for April 16, 1985.

[11] 50 Fed. Reg. 836 (Jan. 7, 1985). These regulations were also issued in proposed form, and comments invited from the public. Hearings on the proposed regulations before the IRS have been scheduled for April 17-18, 1985.

(3) *Content.*—The additional temporary regulations modify the requirement that each record entry must specify the name of the user of the vehicle by providing that if any one person regularly uses the vehicle, that person's name need not be repeated in each entry. Also, the regulations clarified that, as an alternative to listing the number of miles traveled for each business use, the entry may list the mileages at the beginning and ending of the use.

(4) *Lost records.*—The additional temporary regulations add a provision, consistent with legislative history language,[12] that if the taxpayer establishes that adequate contemporaneous records had been maintained, but had been lost through circumstances beyond the taxpayer's control (such as by theft or destruction by fire), the taxpayer instead may substantiate business use through reasonable reconstruction of the lost records.

Reliance by employer

The additional temporary regulations specify certain circumstances under which an employer may satisfy its substantiation requirement of adequate contemporaneous records by relying on such records that are maintained by the employee using the vehicle.

First, the employer may obtain a copy of adequate contemporaneous records kept by the employee; the employer may rely on the copy of such records unless the employer knows or has reason to know they are not accurate. Second, the employer instead may rely on a statement submitted by the employee declaring the number of miles driven in the employer's business and the total mileage driven by the employee; the employer may rely on such statement unless the employer knows or has reason to know that the statement is not based on adequate contemporaneous records. In either case, the employee must retain a copy of the adequate contemporaneous records that he or she has made.

Alternative requirements—overview

The additional temporary regulations provide alternative methods, applicable with respect to certain vehicle uses, under which the taxpayer may satisfy the statutory requirement for substantiating business use of listed property *other than* by maintaining adequate contemporaneous records in the manner described above. These alternative methods apply generally in the case of (1) vehicles used only for business uses, (2) vehicles where personal use is limited to commuting, (3) vehicles used by employees for multiple business stops, (4) vehicles used in connection with a farming business, and (5) vehicles treated as used only for personal purposes. For purposes of the vehicle substantiation rules, the additional temporary regulations provide that a sole proprietor is treated as both an employer and employee; a partnership is treated as an employer of its partners; and a partner is treated as an employee of the partnership.

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[12] See Conference Report on H.R. 4170; H.R. Rep. No. 98-861, 98th Cong., 2d Sess. 1031 (1984).

Vehicles used only for business uses

Under the additional temporary regulations, an employer may treat 100 percent of an employee's use of an automobile or other road vehicle [13] as business use, without satisfying the otherwise applicable requirements for substantiation by adequate contemporaneous records, if the following conditions are met—

(1) The vehicle owned or leased by the employer is provided to one or more employees for use in connection with the employer's trade or business;

(2) When the vehicle is not being used for such business purposes, it is kept on the employer's business premises (or temporarily located elsewhere, e.g., for repair);

(3) Under the employer's policy, no employee may use the vehicle for personal purposes, other than de minimis personal use (such as a stop for lunch between two business deliveries);

(4) The employer reasonably believes that no employee uses the vehicle, other than de minimis use, for any personal purpose; and

(5) No employee using the vehicle lives at the employer's business premises.

To utilize this exception to the otherwise applicable substantiation requirement, there must be evidence that would enable the IRS to determine whether the use of the vehicle met the five conditions listed in the preceding paragraph.

Vehicles where personal use limited to commuting

Under the additional temporary regulations, an employer may treat 100 percent of an employee's use of a road vehicle as business use, without satisfying the otherwise applicable requirements for substantiation by adequate contemporaneous records, if the following conditions are met—

(1) The vehicle owned or leased by the employer is provided to one or more employees for use in connection with the employer's trade or business and is used in the employer's trade or business;

(2) For bona fide noncompensatory business reasons, the employer requires the employee to commute to and/or from work in the vehicle;

(3) The employer establishes a policy under which the employee may not use the vehicle for personal purposes, other than commuting or de minimis personal use (such as a stop for a personal errand between a business delivery and the employee's home);

(4) The employer reasonably believes that, except for de minimis use, the employee does not use the vehicle for any personal purpose other than commuting; and

(5) The employer accounts for the commuting use by including an amount in the employee's gross income pursuant to the special rule for valuation of commuting in an employer-provided automobile, as set forth in temporary regulations (i.e., $3 per day of commuting). This special substantiation rule is not available if the employee using the vehicle for commuting is an officer or one-percent owner of the employer.

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[13] The term "road vehicle" means any vehicle manufactured primarily for use on public streets that is listed property (within the meaning of sec. 280F(d)(4)), including automobiles.

In order to utilize this exception to the otherwise applicable substantiation requirements, there must be evidence that would enable the IRS to determine whether the use of the vehicle meets the conditions set forth in the preceding paragraphs.

Vehicles used for multiple business stops

The additional temporary regulations provide alternative substantiation methods, in lieu of satisfying the otherwise applicable requirements for substantiation by adequate contemporaneous records, of business use of a road vehicle provided by an employer to one or more employees, or owned or leased by an employee, if (1) during most of a normal business day, the vehicle is used to make several stops in connection with the employer's business (for example, to call on customers or clients, to make deliveries, or to visit job sites), and (2) all the business use of the vehicle is in connection with the principal trade or business of the employee.

To utilize this special rule, the taxpayer must be able to demonstrate that these conditions have been met by evidence that would enable the IRS to make such a determination. This special rule is not available for use of a vehicle by an employee who customarily spends most of a normal business day in any office or similar setting.

As the first alternative substantiation method for vehicles used for multiple business stops, the taxpayer may determine deductions or credits, without satisfying the otherwise applicable requirements of substantiation by adequate contemporaneous records, based on a safe-harbor assumption that the business use of the vehicle equals a specified percentage of total use. In the case of a vehicle designed primarily for commercial use (including most trucks and vans), the safe-harbor percentage is 80 percent; in the case of any other type of vehicle (such as a passenger sedan), the safe-harbor percentage is 70 percent.

As the second alternative substantiation method for vehicles used for multiple business stops, the otherwise applicable requirements for substantiation by adequate contemporaneous records may be satisfied by keeping a log (or other qualifying record) with entries, made on a contemporaneous basis, showing the following information—

(1) The vehicle's mileage readings at the beginning and end of the quarter (or of any shorter period during which the vehicle was used by a particular employee or group of employees); and

(2) In the case of any personal use of the vehicle (or use by an employee of an employer-provided vehicle for a trade or business other than that of the employer), the date of such personal use, the name of the user (except for the name of the one person who regularly uses the vehicle), and either the number of miles or the beginning and ending mileage readings for such personal use. However, the record entries would not have to contain the other information required under the general rules for substantiation by adequate contemporaneous records (e.g., the purpose of each business use).

Vehicles used in a farming business

The additional temporary regulations provide alternative substantiation methods, in lieu of satisfying the otherwise applicable

requirements for substantiation by adequate contemporaneous records, in the case of an automobile or other road vehicle regularly used directly in connection with a farming business.[14] In the case of an automobile, these alternative methods may be utilized only if the vehicle is used during most of a normal business day to make several stops directly in connection with the business of farming.

As the first alternative substantiation method for vehicles used in a farming business, the taxpayer may determine deductions or credits, without satisfying the otherwise applicable requirements for substantiation by adequate contemporaneous records, based on a safe-harbor assumption that the business use of the vehicle equals a specified percentage of total use. In the case of a vehicle designed primarily for commercial use (including most trucks and vans), the safe-harbor percentage is 80 percent; in the case of any other type of vehicle (such as a passenger sedan), the safe-harbor percentage is 70 percent.

As the second alternative substantiation method for vehicles used in a farming business, the otherwise applicable requirements for substantiation by adequate contemporaneous records may be satisfied by keeping a log (or other qualifying record) with entries, made on a contemporaneous basis, showing the following information—

(1) The vehicle's mileage readings at the beginning and end of the quarter (or of any shorter period during which the vehicle was used by a particular employee or group of employees); and

(2) In the case of any personal use of the vehicle (or use by an employee of an employer-provided vehicle for a trade or business other than that of the employer), the date of such personal use, the name of the user (except for the name of the one person who regularly uses the vehicle), and either the number of miles or the beginning and ending mileage readings for such personal uses. However, the record entries would not have to contain the other information required under the general rules for substantiation by adequate contemporaneous records (e.g., the purpose of each business use).

Vehicles treated as used only for personal purposes

In certain circumstances, the additional temporary regulations authorize an employer to satisfy the substantiation requirement of adequate contemporaneous records with respect to employee use of a road vehicle by including the full fair market value of the availability of the vehicle in the employee's income, i.e., without any exclusion for a working condition fringe benefit.[15]

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[14] These alternative methods may be utilized by a taxpayer whose gross income from the business of farming exceeds 70 percent of gross income from all sources (excluding passive investment sources such as dividends, interest, and capital gain). The rule applies to vehicles used directly in connection with the business of operating a farm (i.e., cultivating land or raising or harvesting any agricultural or horticultural commodity, or the raising, shearing, feeding, caring for, training, and management of animals) or incidental thereto (such as trips to a feed and supply store).

[15] Code sec. 132(d) defies an excludable working condition fringe as property or services furnished by an employer to an employee to the extent that, if the employee had paid for the benefit, the employee's benefit would have been deductible as a business expense under sec. 162 or 167.

This special rule applies if the records of use of the vehicle furnished by the employee indicate there was no business use of the vehicle, if the employee provides records or mileage statements claiming business use but the employer knows or has reason to know that such records or statements are not accurate, or if the employee fails (within a reasonable period after a request from the employer) to provide the employer with records or a mileage statement as needed by the employer to satisfy its substantiation requirement of adequate contemporaneous records. In addition, this special rule for vehicles treated as utilized only for personal purposes may be used by an employer if the cash compensation paid during the year to the employee using the vehicle is reasonably expected to equal or exceed the social security tax base ($39,600 in 1985).

If the conditions for availability of this special rule are not met, an otherwise applicable requirement of substantiation through adequate contemporaneous records is not satisfied merely because the employer has included the full value of the employee's use of the vehicle in that employee's gross income, i.e., without any exclusion for a working condition fringe. For example, if an employer provides a vehicle to an employee with the understanding that the employee will fail to submit records or a mileage statement to the employer, and the employer includes the entire value of the availability of the vehicle in the employee's gross income, then the employer has not substantiated any deduction or credit claimed by the employer with respect to the vehicle.

Relationship to working condition fringe exclusion

The additional temporary regulations elaborate on the rule that an employer-provided benefit (such as the use of a car) is excludable by the employer or by the employee from the employee's income and wages as a working condition fringe benefit (sec. 132(d)) only if any applicable substantiation requirement, such as the requirement of substantiation by adequate contemporaneous records, is satisfied. For example, if an employee keeps adequate contemporaneous records and the employer properly relies on such records, then the substantiation requirement for the working condition fringe benefit exclusion is satisfied.

In general, if the employer properly utilizes an alternative or special substantiation method to substantiate business use of a vehicle for purposes of deductions or credits (as described above), the employee also may use such method to substantiate a working condition fringe benefit exclusion, provided the employee includes in his or her gross income the amount allocated to the employee by the employer pursuant to the temporary regulations. For example, the special substantiation rule for vehicles not used for personal purposes other than commuting may be used by the employee to substantiate a working condition fringe benefit exclusion, provided the special commuting valuation rule ($3 per day of commuting use) is available to and used by the employee.

The additional temporary regulations also include rules for allocating a working condition fringe benefit exclusion among employees using the same vehicle during the year.

APPENDIX

LEGISLATIVE PROPOSALS RELATING TO REPEAL OF THE RECORDKEEPING PROVISIONS

A. House Bills

1. H.R. 531 (Messrs. Anthony, Jones of Oklahoma, Jenkins, Matsui, Flippo, Frenzel, Campbell, and others)
H.R. 534 (Mr. English)
H.R. 536 (Mr. McEwen)
H.R. 545 (Mr. Whittaker)
H.R. 589 (Mr. Gekas)
H.R. 594 (Mr. Hefner and others)
H.R. 600 (Messrs. Roemer and Daub, and others)
H.R. 614 (Mr. Valentine)
H.R. 647 (Mr. Daub)
H.R. 662 (Mr. Erdreich)
H.R. 706 (Mr. Shelby)
H.R. 707 (Mr. Skelton)
H.R. 728 (Mr. Tauzin)
H.R. 783 (Mr. Darden)
H.R. 813 (Mr. Loeffler and others)
H.R. 826 (Mr. Quillen)
H.R. 863 (Mr. Anderson)
H.R. 884 (Mr. Mica)
H.R. 954 (Mr. Bevill)
H.R. 981 (Mr. Parris)
H.R. 1117 (Mr. Ford of Tennessee)
H.R. 1269 (Mr. Dreier)
H.R. 1325 (Mr. Torres)

All these bills would repeal section 179(b) of the 1984 Act. Thus, under these bills, Code section 274(d) would read as it did before the enactment of the 1984 Act. The requirement that records be contemporaneous would be repealed, and taxpayers would again be able to substantiate their deductions by sufficient evidence corroborating their own statements. The substantiation requirements of section 274(d) would also, under these bills, no longer be applicable to automobiles and other means of transportation (except that section 274(d) would continue to apply to travel while away from home) and computers.

In addition, these bills would repeal the requirement that tax return preparers advise taxpayers of the substantiation requirements of section 274(d) and obtain written confirmation from the taxpayer that these requirements were met. These bills also repeal the provision that an underpayment of tax attributable to failure to meet the substantiation requirements is due to negligence (in

the absence of clear and convincing evidence to the contrary) for purposes of the negligence penalty.

These bills would apply the Internal Revenue Code as if section 179(b) of the 1984 Act had never been enacted.

2. H.R. 541 (Mr. Roth)

This bill would repeal section 179(b)(1) of the 1984 Act as if it had never been enacted. Thus, all the amendments made to section 274(d) would be repealed. This bill would retain the provisions relating to return preparers and the negligence penalty.

3. H.R. 750 (Mr. Marlenee)

This bill would repeal the entirety of section 179 of the 1984 Act as if it had never been enacted. Thus, this bill would repeal all the compliance provisions of section 179 of the 1984 Act; in this respect it is similar to H.R. 531 and the similar bills described above.

In addition, this bill would repeal section 280F of the Internal Revenue Code as if it had never been enacted. Thus, this bill would repeal the provisions relating to the investment tax credit and depreciation limits on luxury automobiles, as well as the denial of the investment tax credit and the limitations on depreciation when business use of listed property (automobiles and other means of transportation, property used for entertainment, recreation, and amusement, computers, and other property listed in regulations) does not exceed 50 percent.

4. H.R. 779 (Mr. Brooks)

This bill would repeal section 179(b) of the 1984 Act as if it had never been enacted. Thus, this bill would repeal all the compliance provisions of section 179 of that Act; in this respect it is similar to H.R. 531 and the similar bills described above.

In addition, this bill would direct the Secretary of the Treasury or his delegate to conduct a study of the overstatements of deductions or credits attributable to the use of cars or other types of property that have substantial personal use. The study is also to consider methods of reducing these overstatements that would be less burdensome than requiring that contemporaneous records be kept. The study, along with any recommendations that the Secretary deems advisable, would be required to be submitted to Congress not later than 180 days after the enactment of the bill.

5. H.R. 812 (Mrs. Lloyd)

This bill would amend section 274(d) of the Internal Revenue Code by repealing the requirement that the records be contemporaneous and by permitting taxpayers to substantiate their deductions or credits by sufficient evidence corroborating their own statements. The bill would apply to taxable years beginning after December 31, 1984. This is the same date that the compliance provisions of section 179(b) of the 1984 Act took effect.

6. H.R. 1305 (Mr. Edwards)

This bill would repeal section 179(b) of the 1984 Act as if it had never been enacted. Thus, this bill would repeal all the compliance

provisions of section 179 of that Act; in this respect it is similar to H.R. 531 and the similar bills described above.

In addition, this bill would provide that no amount shall be included in gross income as a fringe benefit by reason of the use of any vehicle owned by any governmental unit or agency.

B. Senate Bills

1. S. 36 (Senator Abdnor)

This bill would provide that any agricultural vehicle shall not be considered to be subject to the investment tax credit and depreciation restrictions of Code section 280F or to the substantiation requirements of section 274(d), as amended by section 179 of the 1984 Act. This bill would take effect as if included as part of section 179 of the 1984 Act.

2. S. 245 (Senators Abdnor, Wallop, Symms, Heinz, and others)

This bill would amend Code section 274(d) by repealing the requirement that the records be contemporaneous and by permitting taxpayers to substantiate their deductions or credits by sufficient evidence corroborating their own statements. The bill would apply to taxable years beginning after December 31, 1984. This is the same date that the compliance provisions of section 179(b) of the 1984 Act took effect.

3. S. 260 (Senators Heinz, Pryor, Symms, Boren, Long, Wallop, Grassley, Durenberger, Bentsen, Roth, Mitchell, Baucus, and others) and S. 518 (Senator Bumpers)

These bills would amend Code section 274(d) by providing that, with respect to automobiles or other means of transportation that are designed primarily for use on the highways, taxpayers may substantiate their deductions or credits by adequate records or by sufficient evidence corroborating their own statements, rather than by contemporaneous records. These bills would apply to taxable years beginning after December 31, 1984. This is the same date that the compliance provisions of section 179(b) of the 1984 Act took effect. (S. 518 contains additional provisions related to small businesses.)

4. S. 314 (Senator Ford)

This bill would amend Code section 274 by providing that, in the case of a passenger automobile provided by an employer to an employee where it is reasonable to expect that business use is 100 percent of total use and both the employer and the employee so certify to the Secretary, the taxpayer may substantiate his deductions or credits by adequate records or sufficient evidence corroborating the certificate, rather than by adequate contemporaneous records.

In addition, this bill would provide that any agricultural vehicle shall not be considered to be subject to the investment tax credit and depreciation rules of Code section 280F or to the substantiation requirements of Code section 274(d), as amended by section 179 of the 1984 Act. In this respect, this bill is similar to S. 36, which is described above.

This bill would take effect as if included as part of section 179 of the 1984 Act.

5. S. Res. 42 (Senator Melcher)

This resolution would state that it is the sense of the Senate that the Secretary of the Treasury shall not implement or enforce the contemporaneous recordkeeping requirements until Congress has had an opportunity to review them fully.

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